



1 ENERGY AND ENVIRONMENT CABINET

2 Department for Natural Resources

3 Office of Mine Safety and Licensing

4 (Amendment)

5 805 KAR 3:100. Equipment use and operation.

6 RELATES TO: KRS 351.070

7 STATUTORY AUTHORITY: KRS 351.070

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 351.070 authorizes the Secretary  
9 of the Energy and Environment Cabinet to promulgate, amend, or rescind any administrative  
10 regulations as necessary and suitable for the proper administration of KRS Chapter 351. This  
11 administrative regulation establishes ~~[is to establish]~~ safety standards controlling the use of  
12 equipment and the operation thereof in the Commonwealth's surface type coal and clay mines,  
13 ~~[mines]~~ which include strip and auger mining operations.

14 Section 1. Use of Equipment Guards. (1) The following items shall be guarded to prevent  
15 injury:

16 (a) Gears;

17 (b) Sprockets;

18 (c) Chains;

19 (d) Drive, head, tail, and take-up pulleys;

20 (e) Flywheels;

21 (f) Couplings;

1        (g) Shafts;

2        (h) Sawblades;

3        (i) Fan inlets; and

4        (j) Similar exposed moving machine parts that may cause injury to persons. [Gears;  
5 ~~sprockets; chains; drive, head, tail and take-up pulleys; flywheels; couplings; shafts; sawblades; fan~~  
6 ~~inlets; and similar exposed moving machine parts which may cause injury to persons; shall be~~  
7 ~~guarded.]~~

8        (2) An Overhead belt [belts] shall be guarded if the whipping action from a broken belt  
9 may [would] be hazardous to a person [persons] below.

10        (3) A guard [Guards] at conveyor drive, head and tail pulleys shall be sufficient to prevent  
11 a person from reaching behind the guard and becoming caught between the belt and the pulley.

12        (4) A protruding set screw [Protruding set screws] on revolving parts shall be guarded.

13        (5) Except when testing the machinery, a guard [guards] shall be securely in place while  
14 machinery is being operated.

15        (6) A guard [Guards] shall be sufficiently strong and maintained to provide the required  
16 protection.

17        (7) A stationary grinding machine [Stationary grinding machines] other than a special bit  
18 grinder [grinders] shall be equipped with [wit];

19        (a) Peripheral hoods (less than ninety (90) degree throat openings) capable of withstanding  
20 the force of a bursting wheel;

21        (b) Adjustable tool rests set as close as practical to the wheel; and

22        (c) Safety washers.

1       (8) A face shield [~~Face shields~~] or goggles, in good condition, shall be worn when  
2     operating a grinding wheel.

3       (9) A hand held power tool [~~Hand-held power tools~~], other than a rock drill [~~drills~~], shall be  
4     equipped with controls requiring constant hand or finger pressure to operate the tools or shall be  
5     equipped with friction or other equivalent safety devices.

6       (10) A guard or shield [~~Guards or shields~~] shall be provided in areas where flying or falling  
7     materials present a hazard.

8       (11)(a) A vehicle such as a fork lift, truck, front-end loader, and bulldozer shall be  
9     provided with rollover protection if necessary to protect the operator.

10       (b)1. An excavator manufactured after January 1, 2011 shall be provided with roll over  
11     protection. The rollover protection shall meet current International Organization for  
12     Standardization (ISO) standards in place at the time the machine was manufactured.

13       2. Effective January 1, 2016, an excavator that operates in an application with the risk of  
14     a roll over shall be equipped with rollover protection that shall meet, at a minimum, the ISO  
15     12117-2:2008 standard or an equivalent.

16       (12)(a) A vehicle such as a fork lift, truck, front-end loader, and bulldozer, shall be  
17     provided with falling object protection if necessary to protect the operator against falling  
18     material.

19       (b)1. An excavator manufactured after January 1, 2011 shall be provided with falling  
20     object protection. The falling object protection shall meet ISO standards in place at the time the  
21     machine was manufactured.

1        2. Effective January 1, 2016, an excavator that operates in an application with the risk of  
2        falling objects shall be equipped with falling object protection that shall meet, at a minimum, the  
3        ISO 10262:1998 Level II standard or an equivalent.

4        ~~[Vehicles such as fork lifts, trucks, front-end loaders, and bulldozers shall be provided with~~  
5        ~~rollbar protection when necessary to protect the operator.~~

6        ~~(12) Fork lift trucks, front-end loaders, and bulldozers, shall be provided with substantial~~  
7        ~~canopies when necessary to protect the operator against falling material.]~~

8        (13) Unsafe equipment or machinery shall be removed from service immediately.

9        (14) Machinery and equipment shall be operated only by an authorized and experienced  
10       person ~~[persons]~~.

11       (15) A repair ~~[Repairs]~~ or maintenance shall not be performed on machinery until the  
12       power is off and the machinery is blocked against motion, except if ~~[where]~~ machinery motion is  
13       necessary to make an adjustment or if ~~[adjustments or where]~~ nonenergized components of large  
14       machinery can be safely repaired while the machine is operating.

15       (16) A person ~~[Men]~~ shall not work on mobile equipment in a raised position until it has  
16       been blocked in place securely. This does not preclude the use of equipment specifically designed,  
17       such as elevated mobile work platforms.

18       (17) A drive belt ~~[Drive-belts]~~ shall not be shifted while in motion unless the machine is  
19       ~~[machines are]~~ provided with a mechanical shifter ~~[shifters]~~.

20       (18) A belt, chain, or rope shall not be guided onto a power driven moving pulley, sprocket  
21       or drum ~~[Belts, chains, and ropes shall not be guided onto power-driven moving pulleys, sprockets,~~  
22       ~~or drums]~~ with the hands except on slow moving equipment especially designed for ~~[or]~~ hand  
23       feeding.

1 (19) A pulley or conveyor [~~Pulleys or conveyors~~] shall not be cleaned manually while the  
2 conveyor is in motion.

3 (20) A Belt dressing [dressings] shall not be applied manually while the belt is [~~belts are~~] in  
4 motion unless an aerosol-type dressing is used.

5 (21) Machinery shall not be lubricated while in motion if [~~where~~] a hazard exists unless  
6 equipped with extended fittings or cups.

805 KAR 3:100 approved for filing.  
Pages (1-5)

8/26/10

Date

LKP

Léonard K. Peters, Secretary  
Energy and Environment Cabinet

**PUBLIC HEARING AND PUBLIC COMMENT PERIOD:** A public hearing on this administrative regulation shall be held on October 21, 2010 at 10:00 A.M. (Eastern Time) at Conference Room D-16 of the Department for Natural Resources at #2 Hudson Hollow, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by October 14, 2010, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until close of business November 1, 2010. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to the contact person.

**CONTACT PERSON:** Michael Mullins, Regulation Coordinator  
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Frankfort, KY 40601  
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REGULATORY IMPACT ANALYSIS  
AND TIERING STATEMENT

Administrative Regulation No.: 805 KAR 3:100

Contact Person: Michael Mullins, Regulation Coordinator

**(1) Provide a brief summary of:**

**(a) What this administrative regulation does:** This administrative regulation establishes safety standards controlling the use of equipment and the operation thereof in the Commonwealth's surface type coal and clay mines which include strip and auger mining operations.

**(b) The necessity of this administrative regulation:** This administrative regulation is necessary to require safety standards for equipment used on surface coal mines and clay mines within the Commonwealth.

**(c) How this administrative regulation conforms to the content of the authorizing statutes:** KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines." This administrative regulation provides safety standards for equipment.

**(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:** This administrative regulation provides details concerning safety requirements for equipment used at surface type coal and clay mines which include strip and auger mining operations.

**(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:**

**(a) How the amendment will change this existing administrative regulation:** This amendment will introduce new requirements for rollover and fallen object protection. These new standards are issued by the International Organization for Standardization.

**(b) The necessity of the amendment to this administrative regulation:** This amendment is necessary to increase safety for equipment that requires fallen object protection and rollover protection.

**(c) How the amendment conforms to the content of the authorizing statutes:** This amendment conforms to the authorizing statutes by introducing new, more detailed standards related to rollover and fallen object protection.

**(d) How the amendment will assist in the effective administration of the statutes:** KRS 351.070(12) provides that the Commissioner may "prescribe reasonable safety standards



governing...mechanical equipment in the operation of open-pit or surface mines.” This amendment will assist in the effective administration of the authorizing statutes by including new standards related to rollover and fallen object protection for equipment operating in surface type coal and clay mines.

**(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:** There are 214 surface mines currently, at last count there were 300 excavators at these locations. Therefore all surface mines in the Commonwealth and a few underground mines, depending on if they are using excavators in areas where there are dangers of roll over or from falling objects, could be impacted.

**(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:**

**(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:** The entities listed in question (3) above will be required to purchase equipment that complies with the ISO standards listed in Section 1 (11) and (12) after January 1, 2011. Equipment owned prior to January 1, 2011 will be given until January 1, 2016 to comply with the standards.

**(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):** It is difficult to provide a cost associated with all entities in the Commonwealth. The current average cost of an excavator that may be used on a mine site is \$328,000. Retrofitting some of the excavator units currently in use would have an upfront cost of several thousand dollars for initial engineering costs. After the engineering plans were developed for a particular make an model the price would drop significantly.

**(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):** These entities will provide a safer working environment for the operators of the equipment to which these standards relate.

**(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:**

**(a) Initially:** There will be no costs to the administrative body with implementation of this amendment.

**(b) On a continuing basis:** There will be no costs to the administrative body with implementation of this amendment.

**(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:** The funding for implementation of the amendments to this administrative regulation will be General Funds.

**(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:**  
The amendments to this administrative regulation will not require an increase in fees or funding.

**(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees:** This administrative regulation does not establish or increase any fees.

**(9) TIERING: Is tiering applied? (Explain why or why not)**

No. The same standards will apply to every entity listed in question (3) above.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Admin. Regulation No. 805 KAR 3:100

Contact Person: Michael Mullins, Regulation Coordinator

1. Does this administrative regulation relate to any program, service, or requirements of a state or local government (including cities, counties, fire departments, or school districts)?

Yes X No       

If yes, complete questions 2-4.

2. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Office of Mine Safety and Licensing will be minimally impacted by this amendment.

3. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 351.070 authorizes the Commissioner of the Department for Natural Resources to prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines. The Office of Mine Safety and Licensing administers this program on behalf of the Commissioner.

4. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. This regulation will neither increase the revenues nor the expenditures of the agency.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? This administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue in subsequent years.

(c) How much will it cost to administer this program for the first year? There is not a cost associated with this administrative regulation.

(d) How much will it cost to administer this program for subsequent years? There will not be a cost associated with this administrative regulation in subsequent years.

**Note:** If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): NA

Expenditures (+/-): NA

Other Explanation: NA